IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Civil Revision No. 93 of 2001
(Old No. 458 of 1993)

1. Shrawan Singh S/o Sri Sarju Singh
2. Smt. Krishna Devi W/o late Bhalla Ram,
R/o Mohalla Shekhupura, Kankhal,
Tehsil and District Haridwar.

…… Revisionists

Versus

Mahant Amar Das, Shishya Mahant Arjan Das
Adhyaksh Shree 108 Pujyapad Adwait Panch
Parmeshwar Panchayati Akhara Naya Udaseen
Shree Gurusangat Sahib Jee Udaseen Nirvan,
Kankhal, District Haridwar & 15 others.

……. Respondents

Mr. Parikshit Saini, Advocate for the revisionist No. 2.
None for the respondents.

Hon. Prafulla C. Pant, J.

Heard learned counsel for the revisionist. None present for the respondents even after service of notice issued by this Court.

2) This revision was initially filed before the Allahabad High Court and received by this Court on its transfer, for its disposal under Section 35 of the U.P. Re-organization Act, 2000. After transfer of the case to this Court, notices were issued to the respondents, but none of them have turned up, even after sufficient service.

3) This revision is directed against the order dated 21.08.1993, passed in Original Suit No. 161 of 1990, whereby the application of the third party for impleadment under Order I Rule 10 of the Code of Civil Procedure, 1908, was rejected.

4) Perusal of the impugned order shows that the applicant-revisionists were the recorded tenure holders, who sought their impleadment in the aforesaid suit. The learned trial court has

committed error of law in rejecting the application of the revisionists, third party, for impleadment in the suit merely on the ground that the tenant is dominus litis and has not sought any relief against the third party. The third party applicants have pleaded that they are the recorded tenure holders, as such, their rights are affected if they are not impleaded in the suit. The court cannot close its eyes in respect of such a party who has a recorded claim over the property, in respect of which others are contesting, who are not the recorded tenure holders. In the circumstances, this Court is of the view that learned trial court has failed to exercise jurisdiction vested in it by not allowing the application moved under Order I Rule 10 of the Code, moved by the applicants.

5) Therefore, the revision is allowed. The application moved under Order I Rule 10 of the Code of Civil Procedure, 1908 also stands allowed. The plaintiff in the suit is directed to implead the third parties, Shrawan Singh and Smt. Krishna Devi as defendants in the array of parties.

(Prafulla C. Pant, J.)

Dt. March 06, 2006.
H.Negi